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Practitioner's Docket No. RAR379.01

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Joseph C. Lee
Application No.: 10/670,873
Filed: 09/25/2003
For: Wafer Mobile Phone Platform System

Group No.: 2614
Examiner: Le, Lana N.

Mail Stop APPEAL BRIEF - PATENTS
Commissioner for Patents
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TRANSMITTAL OF APPEAL BRIEF
(PATENT APPLICATION—37 C.F.R. 41.37)

1. Transmitted herewith, in triplicate, is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on June 26, 2008. This Appeal Brief is being filed on October 23, 2008.

2. STATUS OF APPLICANT

This application is on behalf of a small entity.

3. FEE FOR FILING APPEAL BRIEF

Pursuant to 37 C.F.R. 41.20(b)(2), the fee for filing the Appeal Brief is:


For a small entity \$ 270.00

Appeal Brief fee due \$ 270.00

Certificate of Express Mailing - 37 C.F.R. § 1.10

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I hereby certify that the papers and/or fees identified in this letter are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated above and is addressed to Mail Stop Appeal Brief-Patent, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.


Richard A. Ryan, PTO #39,014

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(Transmittal of Amended Appeal Brief—page 1 of 2)

4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply.

Applicant petitions for an extension of time under 37 C.F.R. 1.136 (fees: 37 C.F.R. 1.17(a)(1)-(4)) for two (2) months:

Fee \$245.00

If an additional extension of time is required, please consider this a petition therefor.

5. TOTAL FEE DUE

The total fee due is:

Appeal brief fee: \$ 270.00
Extension of term: \$ 245.00

TOTAL FEE DUE \$ 515.00

6. FEE PAYMENT

Attached is a check in the amount of \$ 515.00.

Date: 10/23/2008


SIGNATURE OF PRACTITIONER

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ATTENTION: Board of Patent Appeals and Interferences

APPELLANT'S BRIEF (37 C.F.R. 41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on June 26, 2008.

The fees required under § 41.20(b)(2), and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief is transmitted in triplicate.

This brief contains these items under the following headings, and in the order set forth below (37 C.F.R. 41.37(c)):

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Richard A. Ryan, PTO # 39,014

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I. REAL PARTY IN INTEREST (37 C.F.R. 41.37(c)(I))

The real party in interest in this appeal is Joseph C. Lee, the Appellant named in the caption of this brief.

II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. 41.37(c)(ii))

With respect to other appeals or interferences that will directly affect, or be directly affected by, or have a bearing on the Board's decision in the pending appeal there are no such appeals or interferences.

III. STATUS OF CLAIMS (37 C.F.R. 41.37(c)(iii))

A. TOTAL NUMBER OF CLAIMS IN APPLICATION

Claims in the application are: 1-32

B. STATUS OF ALL THE CLAIMS IN APPLICATION

1. Claims previously canceled: None
2. Claims withdrawn from consideration but not canceled: None
3. Claims pending: 1-32
4. Claims allowed: None
5. Claims rejected: 1-32

C. CLAIMS ON APPEAL

The claims on appeal are: 1-32.

IV. STATUS OF AMENDMENTS (37 C.F.R. 41.37(c)(iv))

The present patent application was filed on September 25, 2003. The initial Office Action was mailed on May 12, 2006, in which the Examiner rejected all of the pending claims, claims 1-32, based on obviousness under 35 U.S.C. § 103(a). The Appellant filed a response

to the initial Office Action on October 12, 2006. In that response, the Appellant amended certain claims, including each independent claim (claims 1, 14 and 25) to more specifically identify the invention and argued for patentability of all the claims. A second, third and fourth Office Actions were issued by the Examiner, each of which rejected all of Appellant's claims based on obviousness, though based on different prior art or combinations thereof, under 35 U.S.C. § 103(a). Appellant responded to each Office Action by further amending certain claims and arguing for patentability of all of the claims. In the fourth Office Action, which was placed in final condition, the Examiner also rejected each of the independent claims under 35 U.S.C. § 112, second paragraph, as being indefinite. Although Appellant disagreed with the Section 112 rejection, Appellant filed a proposed amendment on May 1, 2008 seeking to amend the independent claims to address that rejection to better place the application in condition for appeal. On May 29, 2008, the Examiner issued a Notice of Non-Compliant Amendment on the grounds that there were no responsive remarks/arguments with respect to the 35 U.S.C. § 103(a). As such, Appellant's proposed amendment was not entered. On June 26, 2008, Appellant filed the Notice of Appeal. During the prosecution of the present patent application no claims were canceled and no claims were added. Therefore, claims 1-32 are currently pending in the present application.

V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. 41.37(c)(v))

A. INDEPENDENT CLAIM 1

Claim 1 is directed to a wafer mobile phone platform system 10 for transmitting voice and data over a wireless communication network 16 comprising a mobile phone wafer 12 that is configured to operatively connect to a peripheral device 18 that is not otherwise able to communicate over the wireless communication network 16. (p.8:13-9:18; FIG. 1) The peripheral device 18 includes such devices as an earpiece/headset 18a, an otherwise non-operable cellular phone 18b, laptop computer 18c, digital camera 18e, video camera 18f or PDA 18g (among others). (p.19:18 - 29:13; FIG. 9) A transceiver unit 14 on mobile phone wafer 12 has telephone circuitry and components for connection to the wireless communication network 16 in order to send and receive voice and data communications (from the wafer 12 or, if connected thereto, the peripheral device 18). (p.15:18-16:11; FIG. 1) A memory storage device 21 on the mobile phone wafer 12 is connected to the transceiver unit 14 and configured to store data that is accessible by the transceiver unit 14. (p.16:16-17:9) A battery 20 on the mobile phone wafer 12 is operatively connected to the transceiver unit 14. (p.16:16-17:6) A

communication device 26 on the mobile phone wafer 12 is configured to transmit voice and data between the transceiver unit 14 and the peripheral device 18. (p.17:15-18:17) An antenna 34 is coupled to the transceiver unit 14. (p18:18-19:6) The mobile phone platform system 10 allows a user to utilize the mobile phone wafer 12 as a stand alone mobile phone for wireless voice communication and to convert the peripheral device 18 to use for wireless voice and data communication over the wireless communication network 16 by connecting the mobile phone wafer 12 to the peripheral device 18 so as to interface the transceiver unit 14 and memory storage device 21 with the peripheral device 18. (p.29:14-31:7)

B. INDEPENDENT CLAIM 14

Claim 14 is directed to a wafer mobile phone platform system 10 for transmitting voice and data over a wireless communication network 16 comprising a mobile phone wafer 12 that is configured to operatively connect to a plurality of peripheral devices 18 that are not otherwise able to communicate over the wireless communication network 16. (p.8:13-9:18; FIG. 1) The peripheral devices 18 include earpiece/headset 18a, an otherwise non-operable cellular phone 18b, laptop computer 18c, digital camera 18e, video camera 18f or PDA 18g (among others). (p.19:18 - 29:13; FIG. 9) A transceiver unit 14 on mobile phone wafer 12 has telephone circuitry and components for connection to the wireless communication network 16 in order to send and receive voice and data communications (from the wafer 12 or, if connected thereto, the peripheral device 18). (p.15:18-16:11; FIG. 1) A memory storage device 21 on the mobile phone wafer 12 is connected to the transceiver unit 14 and configured to store data that is accessible by the transceiver unit 14. (p.16:16-17:9) A battery 20 on the mobile phone wafer 12 is operatively connected to the transceiver unit 14. (p.16:16-17:6) A communication device 26 on the mobile phone wafer 12 is configured to transmit voice and data between the transceiver unit 14 and the peripheral devices 18. (p.17:15-18:17) A display screen 22 on the mobile phone wafer 12 is operatively coupled with the transceiver unit 14. (p.17:9-13) An antenna 34 is coupled to the transceiver unit 14. (p18:18-19:6) The mobile phone platform system 10 allows a user to utilize the mobile phone wafer 12 as a stand alone mobile phone for wireless voice communication and to selectively convert one of the plurality of peripheral devices 18 to use for wireless voice and data communication over the wireless communication network 16 by connecting the mobile phone wafer 12 to the peripheral device 18 so as to interface the transceiver unit 14 and memory storage device 21 with the peripheral device 18. (p.29:14-31:7)

C. INDEPENDENT CLAIM 25

Claim 14 is directed to a wafer mobile phone platform system 10 for transmitting voice and data over a wireless communication network 16 comprising a mobile phone wafer 12 that is configured to operatively connect to a plurality of peripheral devices 18 that are not otherwise able to communicate over the wireless communication network 16. (p.8:13-9:18; FIG. 1) The peripheral devices 18 include earpiece/headset 18a, an otherwise non-operable cellular phone 18b, laptop computer 18c, digital camera 18e, video camera 18f or PDA 18g (among others). (p.19:18 - 29:13; FIG. 9) A transceiver unit 14 on mobile phone wafer 12 has telephone circuitry and components for connection to the wireless communication network 16 in order to send and receive voice and data communications (from the wafer 12 or, if connected thereto, the peripheral device 18). (p.15:18-16:11; FIG. 1) A memory storage device 21 on the mobile phone wafer 12 is connected to the transceiver unit 14 and configured to store data that is accessible by the transceiver unit 14. (p.16:16-17:9) A battery 20 on the mobile phone wafer 12 is operatively connected to the transceiver unit 14. (p.16:16-17:6) A communication device 26, comprising a short range radio frequency transceiver, on the mobile phone wafer 12 is configured to transmit voice and data between the transceiver unit 14 and the peripheral devices 18. (p.17:15-18:17) An individual reception device 18a, such as the earpiece shown in FIG. 3 having speaker/microphone capability, is configured to allow a user to interface with the transceiver by voice communication so he or she may make and receive telephone calls. (p.16:16-17:4) A display screen 22 on the mobile phone wafer 12 is operatively coupled with the transceiver unit 14. (p.17:9-13) An antenna 34 is coupled to the transceiver unit 14. (p.18:18-19:6) The mobile phone platform system 10 allows a user to utilize the mobile phone wafer 12 as a stand alone mobile phone for wireless voice communication and to selectively convert one of the plurality of peripheral devices 18 to use for wireless voice and data communication over the wireless communication network 16 by connecting the mobile phone wafer 12 to the peripheral device 18 so as to interface the transceiver unit 14 and memory storage device 21 with the peripheral device 18. (p.29:14-31:7)

D. GENERAL SUMMARY OF INVENTION

In general, claims 1-32 (the pending claims) are directed to a wafer mobile platform system for transmitting voice and data over a wireless communication network. In a preferred embodiment, the system comprises a mobile phone wafer having a transceiver unit, a memory

storage device, battery and a communication device thereon and an antenna coupled to the transceiver unit. The mobile phone wafer is configured to operatively connect to one or more different peripheral devices, such as an earpiece/headset, an otherwise non-operable cellular phone, laptop computer, digital camera, video camera or PDA, that is not otherwise able to communicate over the wireless communication network. The transceiver unit has telephone circuitry and components for connection to the wireless communication network for sending and receiving voice and data communications. The memory storage device is connected to the transceiver unit and is configured to store data, such as names and phone numbers, that is assessed by the transceiver unit. The battery is operatively connected to the transceiver unit to provide electrical power thereto. The communication device is configured to transmit voice and data communications between the transceiver unit and the peripheral device. The system of the present invention provides a new and useful communication device which enables the user to utilize the mobile phone wafer as a minimalist mobile phone to transmit voice or data communications over a wireless network and connect the wafer to a peripheral device, which would otherwise not be able to communicate over the wireless network, so as to convert the peripheral device to use for wireless voice and data communication in order enable the user to directly utilize the peripheral device for wireless voice and data communication.

As set forth in the Specification of the present application, Appellant's invention enables a person to purchase a single mobile phone wafer that he or she can utilize on its own as a minimalist mobile phone or which can be utilized with, by connecting wirelessly or physically, a variety of different peripheral devices. While the wafer can function as a stand alone mobile phone, it is not a mobile phone as that term is commonly utilized (i.e., with a phone body having an alphanumeric keypad, etc.). Because the wafer connects to peripheral devices, it will not be necessary to provide the peripheral device with the telecommunications capability that is provided on the wafer (which enables the stand alone use). This can save the user a significant amount of money and reduce the problems users typically have with regard to different communication devices. For instance, instead of purchasing a cell phone, laptop and PDA that each have their own separate telecommunications capability, each of the peripheral devices can be provided without this capability and the user can connect the wafer to one of these particular peripheral devices, or others, on an as-needed or desired basis. As such, it is anticipated that the cost to the user of purchasing the various peripheral devices will be much lower than they are currently.

In addition to the lower initial cost, the user will save money as the manufacturers come out with peripheral devices having new and improved features. For instance, when a new cell

phone is available that has features desired by the user, he or she would only have to purchase the “shell” cell phone with those new features. The wafer can be utilized with the new phone and the old phone shell can be discarded. Presently, when a person purchases a new cell phone (which is also true with laptops, PDAs and other devices), the telecommunications electronics that enable connection to a wireless network still function in the same manner but, despite this, they are discarded with the old phone. The Appellant anticipates that this will significantly reduce buyer concern and anxiety with regard to spending significant sums of money to purchase the newest and latest improvement in technology only to see the expensive device become substantially obsolete in a few months. With the mobile phone wafer of Appellant’s invention, the user keeps the expensive telecommunications component (the wafer) and only has to buy the upgraded shell (i.e., the cell phone having the latest camera and/or video capabilities).

In addition to the foregoing, the system of Appellant’s invention will allow the user to add telecommunications capability to peripheral devices, particularly those having higher quality, that do not currently have such capability. For instance, although cell phones have photographic and video capability, the quality of the photographic/video is much lower than the quality that is available in non-cell phones (as an example photo and video cameras tend to have much better optics, pixel definition, zoom capability, etc. than available with cell phone devices). Appellant’s invention will allow the user to quickly and easily add a quality communications device (on the wafer) to a high quality photo/video camera and then, when that use is no longer needed, place the same wafer in a cell phone body for use as a cell phone, place it in or attach it to another peripheral device or just use the wafer as a minimalist phone. This capability does not currently exist.

Based on the prior art cited by the Examiner, Appellant desires to make it clear that his invention is not merely attaching a telephone to a printer or other peripheral or inserting a wireless network card, such as a PCMCIA card, into a PDA or other peripheral. These two configurations differ substantially from Appellant’s invention and neither configuration solves the problems or provides the benefits of Appellant’s invention. Instead, Appellant’s invention is a platform system that comprises a mobile phone wafer which can be used as a mobile phone, but otherwise having very few “telephone” features, on its own or connected to the peripheral device so that device can be used to transmit voice or data over the wireless network (in addition to the peripheral’s “normal” use). In one embodiment, the peripheral is a cellular phone shell (i.e., all the features except the communications capability - which is provided by the wafer). The user can wirelessly connect or physically insert the wafer into or dock it with

the cellular phone shell to use the cellular phone as he or she would normally use a cellular phone. Then the wafer can be removed from the cellular phone and wirelessly connect, be inserted into or docked with a digital camera (as an example), thereby allowing the user to use the camera as he or she normally would and also send voice, such as a telephone call, and data (i.e., photographs) over the wireless network directly from the camera. This same wafer can then be removed from the camera and placed in a PDA or printer to allow those peripheral devices to send/receive voice or data communications. As such, Appellant's invention allows one mobile phone wafer to be utilized with a variety of peripheral devices that are not otherwise provided with communications capability (even the cellular phone shell). This reduces the cost of the peripheral devices and allows the user to less expensively upgrade the peripheral device, such as a new peripheral device with improved cellular phone, camera, PDA or printer features, without having to also replace the communications capability, which is provided by the mobile phone wafer.

VI. GROUNDS OF REJECTION TO BE REVIEWED (37 C.F.R. 41.37(c)(vi))

Issue 1: Whether claims 1-32 are indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention under 35 U.S.C. § 112, second paragraph.

Issue 2: Whether claims 1-2, 4-6 and 8-9 are patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055) in view of Rydbeck, et al. (U.S. Patent No. 5,890,074).

Issue 3: Whether claims 7, 11-20, 25-26, 28 and 30-32 are patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055) in view of Rydbeck, et al. (U.S. Patent No. 5,890,074) and further in view of Bryson (U.S. Patent Publication No. 2004/0185777).

Issue 4: Whether claim 3 is patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055) and Rydbeck, et al. (U.S. Patent No. 5,890,074) and further in view of Hwang (U.S. Publication No. 2005/0037709).

Issue 5: Whether claim 10 is patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055) and Rydbeck, et al. (U.S. Patent No. 5,890,074) and further in view of Shin (U.S. Patent No. 6,006,109).

Issue 6: Whether claims 21, 27 and 29 are patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055), Rydbeck, et al. (U.S. Patent No. 5,890,074) and Bryson (U.S. Publication No. 2004/0185777) and further in view of Shin (U.S. Patent No. 6,006,109).

Issue 7: Whether claims 22-24 are patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055), Rydbeck, et al. (U.S. Patent No. 5,890,074) and Bryson (U.S. Publication No. 2004/0185777) and further in view of Adams (U.S. Publication No. 2007/0004372).

VII. ARGUMENTS (37 C.F.R. 41.37(c)(vii))

Prior to discussing the arguments pertaining to the specific issues raised by the Examiner in the rejection of the subject claims, Appellant would like to set forth the obviousness principles relevant to the subject claims and rejections thereof. With regard to the obviousness rejections for Appellant's patent application, Section 103(a) only denies patentability to those inventions whose "subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains." (35 U.S.C. § 103.) The teachings from the prior art utilized to determine obviousness must be reasonably pertinent to the problems solved by Appellant's invention. (See In re Clay, 23 USPQ2d 1058, 1060 (CAFC 1992).) If the subject matter and purpose of Appellant's invention are different from the subject and purpose of the invention described in a prior art reference, it would be improper to utilize that reference in the obviousness analysis as a person skilled in the art would not have been motivated to look to or consider such a reference in attempting to solve the problems solved by Appellant's invention. (See In re Clay, 23 USPQ2d at 1061.) Under such circumstances, a person having ordinary skill in the art would not apply the teachings of the prior art to arrive at Appellant's invention. (Id.)

Even if certain prior art references are considered analogous art, there must be something in these references that suggests combining their teachings in order to reject claims

under the obviousness standard. As stated by the court in In re Geiger, 2 USPQ2d 1276 (CAFC 1987), “[o]bviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination.” (In re Geiger, 2 USPQ2d at 1278.) The motivation or suggestion to combine references must exist, otherwise the determination of obviousness involves nothing more “than indiscriminately combining prior art.” (Micro Chemical Inc. v. Great Plains Chemical Co., 41 USPQ2d 1238, 1244 (CAFC 1997).) In In re Fritch, 23 USPQ2d 1780 (CAFC 1992), the Federal Circuit stated the following:

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. The Examiner can satisfy this burden only by showing some objective teaching in the prior art or that knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.

Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined *only* if there is some suggestion or incentive to do so. Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious “modification” of the prior art. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification.

Here, the Examiner relied upon hindsight to arrive at the determination of obviousness. It is impermissible to use the claimed invention as an instruction manual or “template” to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that one cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention. (In re Fritch, 23 USPQ2d at 1783-84 (internal quotes and citations removed).)

The above principles are applied to the Examiner’s rejections of the various claims set forth in the Office Action. As set forth in more detail below, it is Appellant’s position that the pending claims are not obvious in light of the prior art.

Issue 1: Whether claims 1-32 are indefinite for failing to particularly point out and distinctly claim the subject matter which Appellant regards as the invention under 35 U.S.C. § 112, second paragraph.

As to the rejection of Appellant’s claims under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the Appellant regards as the invention. Specifically, the Examiner is of the opinion that line 4 of claims 1, 14 and 25, each of the independent claims, is unclear as to whether it is the

mobile phone wafer or the peripheral device that is not otherwise able to communicate over the wireless communication network and that use of the word “able” is unclear and indefinite as to the possibility of being able to communicate with the wireless network. In relevant part, claim 1 states:

a mobile phone wafer configured to operatively connect to a peripheral device that is not otherwise able to communicate over said wireless communication network;

In relevant part, claims 14 and 25 state:

a mobile phone wafer configured to operatively connect to a plurality of peripheral devices that are not otherwise able to communicate over said wireless communication network;

The language rejected by the Examiner was added in the response filed December 13, 2007. The Examiner’s rejection was included in the Office Action dated March 26, 2008. In a Proposed Amendment filed May 1, 2008, Appellant proposed amending the subject claims with following language (as applied to claim 1, the new language to claims 14 and 25 being the same), to better place the claims in condition for appeal:

a mobile phone wafer configured to operatively connect to a peripheral device, said peripheral device ~~that is not otherwise able~~ being configured to communicate over said wireless communication network;

Appellant received a Notice of Non-Compliant Amendment, mailed May 12, 2008, with the grounds being that the Appellant did not include remarks/arguments responsive to the 35 U.S.C. § 103(a) rejection in the prior Office Action. Appellant is of the position that the proposed amendment should have been entered to better clarify the claims and to address the Examiner’s rejection under Section 112, second paragraph, to better place the claims in condition for appeal and to simplify the present appeal by removing the subject rejection as an issue therein. Appellant is of the position that the subject amendment would fully address and resolve the rejection under Section 112, second paragraph.

In addition, Appellant is of the position that the language rejected by the Examiner does satisfy the requirements under Section 112, second paragraph. Appellant believes that it is clear that the rejected claims identify the peripheral device as being the object that is not otherwise able to communicate over the wireless communication network, not the mobile phone wafer. This is particularly true with regard to independent claims 14 and 25, which

state that “a mobile phone wafer ... a plurality of peripheral devices that are not”. In addition, the Remarks section of the response (12/13/2007) that added the subject language makes it very clear that it is the peripheral device that is not otherwise able to communicate over the wireless network. With regard to the use of the term “able”, Appellant is of the opinion that this does not make the subject claims indefinite. The word “able” is defined as having the ability to do something. Appellant believes that saying the peripheral device is not otherwise able to communicate over the wireless network is clear that the peripheral device does not have ability to communicate over the wireless network on its own. The system of Appellant’s invention connects, directly or wirelessly, the specially configured mobile phone wafer to provide the peripheral device with the ability to communicate over a wireless network.

Issue 2: Whether claims 1-2, 4-6 and 8-9 are patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055) in view of Rydbeck, et al. (U.S. Patent No. 5,890,074).

With regard to the rejection of claims 1-2, 4-6 and 8-9 under 35 U.S.C. § 103(a) as being unpatentable over Stein in view of Rydbeck, the Appellant respectfully disagrees with the Examiner. Although Stein discloses a telecommunications module that enables a peripheral device to link to a wireless network for transmission of voice or data over the wireless network, for purpose of enabling connection to different formats and standards, Stein does not disclose, compel, teach or even suggest utilizing the module as a stand alone mobile phone device. As such, Appellant respectfully disagrees with the Examiner’s characterization of the Stein’s mobile phone 295 & 296 as a mobile phone wafer. In fact, as shown in FIG. 13, Stein teaches away from Appellant’s invention by the telecommunication capability being provided by a complete, separate device (telephone 295) as opposed to being a stand alone wafer that can be directly utilized by the phone or, for that matter, the computer or other devices to turn those devices into communications-capable devices with the connection of the wafer to the device. As such, there is no reason for Stein to include a memory storage device to store data or a battery to provide its own electrical power. As discussed in the Stein patent, the module is configured to provide modular telecommunications capability to a peripheral device that contains the data and power necessary to perform the desired functions. In effect, the module of Stein is essentially a PCMCIA card-like module that is suitable for connection to a computer, PDA or cellular phone to provide the modem connection to the wireless network that enables the user to transmit voice or data. Any data utilized by the module to connect to

or transmit across the wireless network is obtained from, and only from, the peripheral device. Because the module of Stein is not utilized by itself, it is not necessary to provide it with a battery power. Stein discloses the use of a AC/DC power device or being able to utilize the power of the peripheral device. Functional portability of the module was not an issue in Stein.

The Examiner states that Stein does not explicitly disclose that the mobile terminal wafer communicating with the peripheral device (headset) is a mobile phone and the communication device comprising a short range radio frequency transceiver, but that Rydbeck discloses the mobile terminal wafer is adaptable for connection to a peripheral device and the communication device comprising a short range radio frequency transceiver and, therefore, it would have been obvious to combine this with Stein to allow the mobile phone wafer to connect to a peripheral device in order not to disturb others. The Examiner also states that the host electronic system with which the “mobile terminal wafer” of Rydbeck is utilized is not limited to just portable computers, but can be utilized with other portable devices. Appellant respectfully disagrees with the Examiner’s characterization of the Rydbeck device as a “mobile terminal wafer” in the manner that Appellant utilizes that terminology to characterize his invention. As set forth at the text referenced by the Examiner (i.e., col. 9, lines 37-41), the various modems referenced by Rydbeck, shown as 13, 14, 15, 16 and 17, are directed to modular units suitable for communication over radio networks, the conventional cellular radio network in the United States, European cellular network or other standards of communication. Rydbeck discloses the use of a module that allows wireless communication between a host electronic system, such as a laptop computer, and a headset so that the headset may then communicate with a telephone network through the host system. The module is configured to communicate across one or more different standard communication formats. Like the Stein patent, Rydbeck does not disclose, compel or suggest the use of the module as a stand-alone mobile phone wafer that is used for telephone purposes and which can be connected to the peripheral device so that the peripheral device may directly transit voice or data across a wireless communication network.

On page 4 of the subject Office Action, the Examiner states that “Stein and Rydbeck et al do not disclose the mobile phone wafer is operatively connected to the peripheral device (headset) to interface the transceiver unit with the peripheral device to allow a user to utilize the peripheral device for wireless voice and data. Appellant believes the amendment to claim 1 (as well as claims 14 and 25), more clearly define the invention as both allowing use of the wafer as a stand alone minimalist phone and to convert a peripheral device to use for wireless voice and data communication. While the user is allowed to select how he or she desires to

use the mobile phone wafer, the system of the present invention allows selective use of the wafer as a mobile phone and use of the peripheral device for wireless voice and data by converting the peripheral device for such use.

In light of the foregoing, it is respectfully suggested that claim 1 of Appellant's claims is not made obvious by Stein and Rydbeck and that it should be determined to be allowable and the various claims that depend therefrom should also be determined to be allowable. Nothing in the cited prior art teaches, suggests or offers any incentive such that a person wanting to solve the problems of the present invention would combine the Stein and Rydbeck references and, therefore, claim 1 of the present invention is not obvious in light of these references. (See In re Geiger, 2 USPQ2d at 1278.) In addition, the cited prior art does not teach, suggest or offer any incentive for the platform system of the present invention to be coupled (claim 2) to the peripheral device, be suitable for use with the various peripheral devices of claim 5, or have an on/off switch, a headphone jack or a display screen (claim 4). The cited prior art also does not teach, suggest or offer any incentive for the platform system of the present invention to be utilized with an individual reception device (claim 6) or a platform system where the communication device is a short range radio (claims 8) comprising either a Bluetooth or WI-FI module (claim 9).

Issue 3: Whether claims 7, 11-20, 25-26, 28 and 30-32 are patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055) in view of Rydbeck, et al. (U.S. Patent No. 5,890,074) and further in view of Bryson (U.S. Patent Publication No. 2004/0185777).

With regard to the rejection of claims 7, 11-20, 25-26, 28 and 30-32 under 35 U.S.C. § 103(a) as being unpatentable over Stein in view of Rydbeck and further in view of Bryson, the Examiner states that Bryson discloses the communication device is adaptable for a wired connection to the peripheral device and adaptable for connection (via Bluetooth) to a plurality of peripheral devices. According to the Examiner, it would have been obvious to one skilled in the art to communicate with a plurality of peripheral devices in order to allow a piconet network in a Bluetooth environment. Appellant respectfully disagrees with the Examiner's conclusion regarding the obviousness of Appellant's invention. Bryson is directed toward a portable wireless network gateway that aggregates the connectivity demands of a plurality of users having a plurality of user devices which are adapted to communicate via different communication protocols. Bryson notes that many electronic devices are equipped to

communicate with other electronic devices and networks based on standards and technologies known in the computer and/or communication arts. The invention of Bryson provides a portable wireless gateway having at least one access point operative to communicate with user devices, a transceiver operative to communicate with a network and a protocol emulator that, as an example, is operative to encapsulate user device data for transmission by the transceiver.

Respectfully, nothing in Stein, Rydbeck and Bryson teaches, suggests or offers any incentive to combine the attributes of these references to result in Appellant's invention. For instance, it is not within the scope of Appellant's invention "to communicate with a plurality of devices in order to allow a piconet network in a Bluetooth environment," as noted by the Examiner, as that description is understood by Appellant. Nothing in the subject references teaches use of a wafer device which is selectively useful as both a stand-alone mobile telephone for voice/data communication across a wireless communication network and for connection to one of a plurality of peripheral devices so that the user can utilize the peripheral device to transmit voice and data over the wireless communication network. Appellant's invention does not allow communication directly between the plurality of peripheral devices (other than over the wireless communication network - as with present telephones and other devices), as would be expected by a piconet network. Instead, as set forth above, Appellant's invention is a waver mobile phone platform system that comprises a mobile phone wafer having a transceiver unit, a memory storage device, a battery and a communication device on the wafer so that the wafer can function as a minimalist wireless telephone and be connected to a single peripheral device so that the peripheral device can communicate over the wireless network.

One of the benefits of the mobile phone wafer of Appellant's invention, as explained above, is that the wafer can be moved from one device to another to convert the device it is operatively connected to for use to transmit voice or data by converting the peripheral device to a highly upgraded cell phone (i.e., connecting the wafer to a high quality photographic or video camera so the user can talk via the camera or send photos/video from the camera across a wireless communication network). None of the cited references disclose the use of a wafer or module that is capable of use as both a stand-alone telephone and as a means to convert an otherwise non-communicating peripheral device to a device that communicates over a wireless network. Nothing in the Stein, Rydbeck or Bryson references suggest providing a stand-alone telephone wafer or module that is utilized by itself to communicate across a wireless network or which is connected with a peripheral device so that the peripheral device may then directly communicate across the wireless network. As discussed above and in the Specification, this has significant benefits to the typical consumer by allowing him or her to purchase a relatively

sophisticated mobile phone wafer that is useful by itself as a minimalist phone and which can, selectively, be connected to (i.e., either wirelessly, wired or being attached to or received into) a peripheral device so the otherwise non-communicating peripheral device may communicate across the wireless network. This allows the user to purchase a sophisticated, but “shell-like”, cellular phone body having all of the latest technology and then insert (as one example) the wafer into the shell body so that the cellular phone body is now a full-fledged cellular phone that can communicate across the wireless network. The user can then remove the wafer from the cellular phone body and insert it into or dock it with another peripheral device (such as a digital camera, video camera, PDA or printer) so that he or she may use the other peripheral device, instead of the cellular phone body, for voice and data communication over the wireless network. This capability is neither taught nor suggested by the cited prior art, which also does not offer any incentive for the combination in the manner suggested by the Examiner and, as such, is not obvious in light of the cited prior art. (See In re Geiger, 2 USPQ2d at 1278.)

In light of the foregoing, it is respectfully suggested that independent claims 14 and 25 are not made obvious by Stein, Rydbeck and Bryson and, therefore, they should be determined to be allowable and the various claims that depend therefrom should also be determined to be allowable. In addition, claims 7 and 11-13, which depend from independent claim 1, are not obvious in light of the prior art.

Issue 4: Whether claim 3 is patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055) and Rydbeck, et al. (U.S. Patent No. 5,890,074) and further in view of Hwang (U.S. Publication No. 2005/0037709).

Initially, because claim 3 depends from claim 1 and claim 1 is believed to be allowable, as set forth above, claim 3 is also believed to be allowable as being dependent on an allowable claim. With regard to the rejection of claim 3 under 35 U.S.C. § 103(a) as being unpatentable over Stein, and Rydbeck and further in view of Hwang, Appellant hereby incorporates the arguments set forth above with regard to Stein and Rydbeck as also being applicable to claim 3. In addition, the Appellant respectfully disagrees with the Examiner with regard to the obviousness of claim 3 in light of the combination of Stein, Rydbeck and Hwang. Hwang discloses a printing apparatus that includes a printer having a detachable faceplate configured to receive data from a mobile communications device (cellular phone). The cellular phone is docked to the cradle to allow data transmitted via the cellular phone to be printed by the printer. However, Hwang does not show use of a mobile phone wafer suitable for selective

connection to a peripheral device (which may be the cellular phone) or for use as a stand-alone phone as described by claim 1 of Appellant's application, particularly with regard to different types of peripheral devices. The combination of Hwang with the Stein and Rydbeck references, as discussed above, does not teach, suggest or offer any incentive to develop the platform system of Appellant's invention. As such, Appellant believes claim 3 is not obvious in light of the cited prior art. (See In re Geiger, 2 USPQ2d at 1278.)

Issue 5: Whether claim 10 is patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055) and Rydbeck, et al. (U.S. Patent No. 5,890,074) and further in view of Shin (U.S. Patent No. 6,006,109).

With regard to the Examiner's rejection of claim 10 under 35 U.S.C. § 103(a) as being unpatentable over Stein and Rydbeck and further in view of Shin, Appellant initially is of the position that because independent claim 1, from which claim 10 depends, is allowable that claim 10 is also allowable as depending from an allowable claim. In addition, the arguments with made in response to the obviousness allegation of claim 1 with regard to the Stein and Rydbeck references, which arguments are incorporated herein, are also applicable to claim 10. Claim 10 adds the limitation of a headphone jack to the communication device. Appellant believes the attributes of his invention which distinguish it from the prior art, namely a mobile phone wafer that can be used as a stand-alone device or connected to one or more peripheral devices, also make the addition of a headphone jack thereto non-obvious.

Issue 6: Whether claims 21, 27 and 29 are patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055), Rydbeck, et al. (U.S. Patent No. 5,890,074) and Bryson (U.S. Publication No. 2004/0185777) and further in view of Shin (U.S. Patent No. 6,006,109).

The Examiner rejected claims 21, 27 and 29 under 35 U.S.C. § 103(a) as being unpatentable over Stein, Rydbeck and Bryson and further in view of Shin. Initially, Appellant is of the position that because independent claims 14 and 25, from which the subject claims depend, are allowable (as set forth above), claims 21, 27 and 29 are also allowable as depending from an allowable claim. In addition, the arguments with made in response to the obviousness allegation of claims 14 and 25 with regard to the Stein, Rydbeck and Bryson references, which arguments are incorporated herein, are also applicable to claims 21, 27 and

29. The subject claims add the limitation of a headphone jack to the communication device. Appellant believes the attributes of his invention which distinguish it from the prior art, namely a mobile phone wafer that can be used as a stand-alone device or connected to one or more peripheral devices, also make the addition of a headphone jack thereto non-obvious.

Issue 7: Whether claims 22-24 are patentable under 35 U.S.C. § 103(a) over Stein (U.S. Patent No. 5,628,055), Rydbeck, et al. (U.S. Patent No. 5,890,074) and Bryson (U.S. Publication No. 2004/0185777) and further in view of Adams (U.S. Publication No. 2007/0004372).

The Examiner rejected claims 22-24 under 35 U.S.C. § 103(a) as being unpatentable over Stein, Rydbeck, Bryson and further in view of Adams. Initially, Appellant is of the position that because independent claim 14, from which these claims depend, is allowable (as set forth above), claims 22-24 are also allowable as depending from an allowable claim. In addition, the arguments with made in response to the obviousness allegation of claim 14 with regard to Stein, Rydbeck and Bryson, which are incorporated herein, are also applicable to claims 22-24. As set forth above, Appellant respectfully takes the position that Stein, Rydbeck and Bryson do not disclose or make obvious Appellant's invention, whether with a wireless or a wired connection between the wafer and the peripheral device. As such, Appellant does not believe that the wired connection in Adams (paragraph 40) makes his invention obvious.

Conclusion:


Appellant is of the position that the referenced prior art does not make the presently pending claims, claims 1-32, of the present patent application obvious. Specifically, with regard to the independent claims 1, 14 and 25, the prior art does not disclose, teach or even suggest a wafer mobile phone platform system wherein the mobile phone wafer, which is configured for wireless voice and data communication, is useful as a stand alone (albeit minimalist) mobile phone and also able to convert a peripheral that is not otherwise capable of communicating over a wireless network to a device which can be utilized to wireless transmit voice and/or data over the wireless network by connecting the mobile phone wafer to the peripheral device so as to interface the transceiver unit and memory storage device on the wafer with the peripheral device. With the system of the present invention, the user can talk over the mobile phone wafer when it is utilized alone and he or she can connect the wafer to a peripheral device (like a cell phone shell, digital camera, video camera, PDA, etc.) in order to

transmit voice or data via the peripheral device. As an example, the user can place the mobile phone wafer in the cell phone shell and use the cell phone in the normal manner to transmit voice and data over the wireless communication network. Later, he or she can remove the mobile phone wafer from the cell phone shell, place it in a digital photographic camera and use the camera for voice and data transmission. Later, he or she can remove the mobile phone wafer from the digital camera and place it in a video camera to use the video camera for voice and data transmission. The user can then remove the mobile phone wafer from the video camera and place it in a PDA and so on. In each of the above, the user would be utilizing the same communication setup, memory (i.e., phone number database) and other components of the wafer, eliminate the need to learn a variety of different communication setups and avoid the need of transferring the database (as an example) from one device to another. Nothing in the cited prior art teaches, suggests or offers any incentive such that a person wanting to solve the problems and offer the benefits of the present invention would combine the subject references in the manner suggested by the Examiner. Therefore, the claims of the present invention are not obvious in light of these references. (See In re Geiger, 2 USPQ2d at 1278.)

The system of the present invention is not obvious in light of the prior art. For the reasons set forth above, Appellant respectfully contends that each claim appealed from is patentable. Therefore, reversal of the rejection of claims 1-32 based on 35 U.S.C. § 103(a) is courteously solicited.

10/23/2008
DATE

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VIII. CLAIMS APPENDIX (37 C.F.R. 41.37(c)(viii))

1. A wafer mobile phone platform system for transmitting voice and data over a wireless communication network, said system comprising:

a mobile phone wafer configured to operatively connect to a peripheral device that is not otherwise able to communicate over said wireless communication network;

a transceiver unit on said mobile phone wafer, said transceiver unit having telephone circuitry and component for connection to said wireless communication network for sending and receiving voice and data communications;

a memory storage device on said mobile phone wafer, said memory storage device connected to said transceiver unit and configured to store data accessible by said transceiver unit;

a battery on said mobile phone wafer, said battery operatively connected to said transceiver unit;

a communication device on said mobile phone wafer, said communication device configured to transmit voice and data communications between said transceiver unit and said peripheral device; and

an antenna coupled to said transceiver unit,

wherein said wafer mobile phone platform system allows a user to utilize said mobile phone wafer as a stand alone mobile phone for wireless voice communication and convert said peripheral device to use for wireless voice and data communication over said wireless communication network by connecting said mobile phone wafer to said peripheral device so as to interface said transceiver unit and said memory storage device with said peripheral device.

2. The system according to claim 1, wherein said mobile phone wafer is configured to be coupled with said peripheral device.

3. The system according to claim 2, wherein said mobile phone wafer is configured to be docked with or inserted into said peripheral device.

4. The system according to claim 1, wherein said mobile phone wafer further comprises an on/off switch and a display screen operatively connected to said transceiver unit.

5. The system according to claim 1, wherein said peripheral device comprises one of: a cellular phone; an earpiece having a speaker and a microphone; a headset having a speaker and a microphone; a laptop computer; a desktop computer; a digital camera; a video camera; a PDA; a printer; a tape recorder; a cordless telephone; a game/message console; and a GPS unit.

6. The system according to claim 1, wherein said peripheral device is an individual reception device configured to allow a user to interface with said transceiver by voice communication to make and receive telephone calls.

7. The system according to claim 1, wherein said peripheral device is a cellular phone comprising a phone body having a standard twelve key keypad, one or more function keys and a display panel.

8. The system according to claim 1, wherein said communication device comprises a short range radio frequency transceiver.

9. The system according to claim 8, wherein said short range radio frequency transceiver comprises at least one of a Bluetooth module and a Wi-Fi module.

10. The system according to claim 8, wherein said communication device further comprises a headphone jack.

11. The system according to claim 1, wherein said communication device is adaptable for a wired connection to said peripheral device.

12. The system according to claim 11, wherein said wired connection is a USB, serial, parallel or firewire connection.

13. The system according to claim 1, wherein said mobile phone wafer is adaptable for connection to a plurality of peripheral devices and said mobile phone wafer can be operatively connected to said plurality of peripheral devices to interface said transceiver unit with said peripheral devices to allow the user to selectively utilize said peripheral devices for wireless voice and data communication.

14. A wafer mobile phone platform system for transmitting voice and data over a wireless communication network, said system comprising:

a mobile phone wafer configured to operatively connect to a plurality of peripheral devices that are not otherwise able to communicate over said wireless communication network;

a transceiver unit on said mobile phone wafer, said transceiver unit having telephone circuitry and component for connection to said wireless communication network for sending and receiving voice and data communications;

a memory storage device on said mobile phone wafer, said memory storage device connected to said transceiver unit and configured to store data accessible by said transceiver unit and said peripheral device;

a battery on said mobile phone wafer, said battery operatively connected to said transceiver unit;

a communication device on said mobile phone wafer, said communication device configured to transmit voice and data communications between said transceiver unit and said plurality of peripheral devices;

a display screen on said mobile phone wafer, said display screen operatively coupled with said transceiver unit; and

an antenna coupled to said transceiver unit,

wherein said wafer mobile phone platform system allows a user to utilize said mobile phone wafer as a stand alone mobile phone for wireless voice communication and selectively convert one of said plurality of peripheral devices to use for wireless voice and data communication over said wireless communication network by connecting said mobile phone wafer to said peripheral device so as to interface said transceiver unit and said memory storage device with said peripheral device.

15. The system according to claim 14, wherein said mobile phone wafer further comprises an on/off switch.

16. The system according to claim 14, wherein said peripheral device comprises one of: a cellular phone; an earpiece having a speaker and a microphone; a headset having a speaker and a microphone; a laptop computer; a desktop computer; a digital camera; a video camera; a PDA; a printer; a tape recorder; a cordless telephone; a game/message console; and a GPS unit.

17. The system according to claim 14, wherein said peripheral device is an individual reception device configured to allow a user to interface with said transceiver by voice communication to make and receive telephone calls.

18. The system according to claim 14, wherein said peripheral device is a cellular phone comprising a phone body having a standard twelve key keypad, one or more function keys and a display panel.

19. The system according to claim 14, wherein said communication device comprises a short range radio frequency transceiver.

20. The system according to claim 19, wherein said short range radio frequency transceiver comprises at least one of a Bluetooth module and a Wi-Fi module.

21. The system according to claim 19, wherein said communication device further comprises a headphone jack.

22. The system according to claim 14, wherein said communication device is adaptable for a wired connection to said peripheral device.

23. The system according to claim 22, wherein said wired connection is a USB, serial, parallel or firewire connection.

24. The system according to claim 14, wherein said mobile phone wafer has an on/off switch operatively connected to said transceiver unit and said communication device is configured for a wired connection to said peripheral device and comprises at least one of a short range radio frequency transceiver and a headphone jack.

25. A wafer mobile phone platform system for transmitting voice and data over a wireless communication network, said system comprising:

a mobile phone wafer configured to operatively connect to a plurality of peripheral devices that are not otherwise able to communicate over said wireless communication network;

a transceiver unit on said mobile phone wafer, said transceiver unit having telephone circuitry and component for connection to said wireless communication network for sending and receiving voice and data communications;

a memory storage device on said mobile phone wafer, said memory storage device connected to said transceiver unit and configured to store data accessible by said transceiver unit and said peripheral device;

a battery on said mobile phone wafer, said battery operatively connected to said transceiver unit;

a communication device on said mobile phone wafer, said communication device configured to transmit voice and data communications between said transceiver unit and said plurality of peripheral devices, said communication device comprising a short range radio frequency transceiver;

an individual reception device in communication with said communication device, said individual reception device configured to allow a user to interface with said transceiver by voice communication so as to make and receive telephone calls;

a display screen on said mobile phone wafer, said display screen operatively coupled with said transceiver unit; and

an antenna coupled to said transceiver unit,

wherein said wafer mobile phone platform system allows a user to utilize said mobile phone wafer as a stand alone mobile phone for wireless voice communication and selectively convert one of said plurality of peripheral devices to use for wireless voice and data communication over said wireless communication network by connecting said mobile phone wafer to said peripheral device so as to interface said transceiver unit and said memory storage device with said peripheral device.

26. The system according to claim 25, wherein said peripheral device is a cellular phone comprising a phone body having a standard twelve key keypad, one or more function keys and a display panel.

27. The system according to claim 25, wherein said communication device further comprises a headphone jack.

28. The system according to claim 25, wherein said short range radio frequency transceiver comprises at least one of a Bluetooth module and a Wi-Fi module.

29. The system according to claim 28, wherein said communication device further comprises a headphone jack.

30. The system according to claim 29, wherein said communication device is configured for a wired connection to said peripheral device.

31. The system according to claim 30, wherein said wired connection is a USB, serial, parallel or firewire connection.

32. The system according to claim 25, wherein said wherein said communication device is configured for a wired connection to said peripheral device.

IX. EVIDENCE APPENDIX (37 C.F.R. 41.37(c)(ix))

None.

X. RELATED PROCEEDINGS APPENDIX (37 C.F.R. 41.37(c)(x))

None.